

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEENAN MCMILLEN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 3:20-cv-192
	)	District Judge Stephanie L. Haines
JOHN WETZEL and THE PENNSYLVANIA	)	Magistrate Judge Maureen P. Kelly
DEPARTMERNT OF CORRECTIONS,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION**

This is a civil rights case brought by Plaintiff Keenan McMillen (“Plaintiff”) relating to his incarceration at State Correctional Institution at Houtzdale (“SCI- Houtzdale”). In his Complaint (ECF No. 5), Plaintiff alleges prison officials failed to properly treat his substance use disorder, in violation of Eighth and Fourteenth Amendments and the Americans with Disabilities Act (“ADA”). This matter was referred to Magistrate Judge Maureen P. Kelly for proceedings in accordance with the Federal Magistrates Act, 28 U.S. C. § 636, and Local Civil Rule 72.D.

On August 25, 2022, Magistrate Judge Kelly issued a Report and Recommendation (ECF No. 60) recommending that the Court dismiss Plaintiff’s claims with prejudice for failure to prosecute. The parties were advised that objections to the Report and Recommendation were due on September 12, 2022. No party filed objections, and the time to do so has passed.

Upon review of the record and the Report and Recommendation (ECF No. 60) under the applicable “reasoned consideration” standard, *see EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of Magistrate Judge Kelly in this matter.

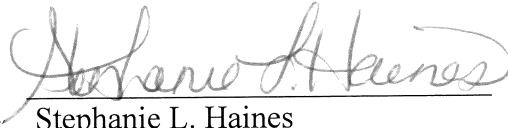
As explained by Magistrate Judge Kelly, Plaintiff's pretrial statement was due by July 6, 2022, but Plaintiff did not file a pretrial statement as required. On July 13, 2022, Magistrate Judge Kelly then ordered Plaintiff to show cause why the case should not be dismissed for failure to prosecute (ECF No. 55). Plaintiff was ordered to respond to that rule on or before August 15, 2022. *Id.* To date, Plaintiff has failed to respond and/or otherwise litigate his claims in this case.

Magistrate Judge Kelly's Report and Recommendation (ECF No. 60) appropriately evaluated the factors under *Poulis v. State Farm Fire and Casualty Company*, 747 F. 2d 863 (3<sup>rd</sup> Cir. 1984), and correctly determined these factors weigh in favor of dismissal with prejudice in this case. Plaintiff has been repeatedly warned that failure to comply with the Court's Orders could result in the dismissal of his case for failure to prosecute. Accordingly, the Court will dismiss this case with prejudice for failure to prosecute.

An appropriate Order will follow.

DATE:

10/4/22

A handwritten signature in cursive script, appearing to read "Stephanie L. Haines", written in dark ink.

Stephanie L. Haines  
United States District Judge